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10 Attorneys for Defendants

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SUPERIOR COURT OF ARIZONA  
COUNTY OF MARICOPA

7 REBECCA BEASLEY, individually as the  
8 surviving spouse of ORVILLE THOMAS  
9 BEASLEY, III, and as personal  
10 representative of the ESTATE OF ORVILLE  
11 THOMAS BEASLEY, III; and ORVILLE  
12 THOMAS, II and ANNA ELIZABETH  
13 BEASLEY, husband and wife and parents of  
14 ORVILLE THOMAS BEASLEY, III,

15 Plaintiffs,

16 vs.

17 JOHN C. STUART and JANE DOE  
18 STUART, a married couple; JOHN and  
19 JANE DOES I-V; BLACK & WHITE  
20 CORPORATIONS VI-X; and ABC  
21 PARTNERSHIPS XI-XV,

22 Defendants.

No. CV2010-050624

**DEFENDANT JOHN C. STUART'S  
AMENDED ANSWER**

(Assigned to the Honorable Linda  
Miles)

23 Defendant John C. Stuart, by and through undersigned counsel, hereby amends his  
24 answers the allegations in the complaint as follows:

25 1. Defendant is without sufficient information to form a belief about the  
26 allegations in Paragraph 1 and therefore denies same.

2. Defendant is without sufficient information to form a belief about the  
allegations in Paragraph 2 and therefore denies same.

3. Defendant is without sufficient information to form a belief about the  
allegations in Paragraph 3 and therefore denies same.

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4. Defendant admits the allegations contained in paragraph 4.

5. Defendant denies the allegations contained in paragraph 5.

6. Defendant is without sufficient information to form a belief about the allegations in Paragraph 6 and therefore denies same.

7. Defendant denies the allegations contained in paragraph 7.

8. Defendant admits that venue and jurisdiction are proper pursuant to paragraph 8.

9. Defendant admits that his vehicle and the vehicle driven by Orville Thomas Beasley, III (“Beasley”) were traveling westbound on Pinnacle Peak Road in Scottsdale, Arizona on January 29, 2008 but denies the remaining allegations contained in paragraph 9.

10. Defendant denies the allegations contained in paragraph 10.

11. Defendant denies the allegations contained in paragraph 11.

12. Defendant denies the allegations contained in paragraph 12.

13. Defendant admits that the vehicle he was driving and the vehicle driven by Beasley came to a stop at a red traffic signal at Tatum Road but denies the remaining allegations contained in paragraph 13.

14. Defendant denies the allegations contained in paragraph 14.

15. Defendant denies the allegations contained in paragraph 15.

16. Defendant denies the allegations contained in paragraph 16.

17. Defendant denies the allegations contained in paragraph 17.

18. Defendant denies the allegations contained in paragraph 18.

19. Defendant denies the allegations contained in paragraph 19. Defendant, however, admits that Beasley exited his vehicle and approached Defendant’s vehicle to threaten and then charge him. Beasley began to fight over a gun.

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20. Defendant denies the allegations contained in paragraph 20.

21. Defendant denies the allegations contained in paragraph 21. When Beasley was shot, he was partially in Defendant's vehicle threatening him and fighting with him.

22. Defendant admits he retreated from the accident scene but denies the remaining allegations contained in paragraph 22.

COUNT ONE  
**WRONGFUL DEATH**

23. Defendant denies the allegations contained in paragraph 23.

24. Defendant denies the allegations contained in paragraph 24a-d.

COUNT TWO  
**RECKLESS AND GROSS NEGLIGENCE**

25. Defendant is without sufficient information to admit or deny the allegations contained in paragraph 25 as the allegations are not specific, therefore, Defendant denies the allegations contained in paragraph 25.

26. Defendant denies the allegations contained in paragraph 26.

27. Defendant denies the allegations contained in paragraph 27a-d.

COUNT THREE  
**NEGLIGENCE**

28. Defendant denies the allegations contained in paragraph 28.

29. Defendant denies the allegations contained in paragraph 29a-d.

COUNT FOUR  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

30. Defendant denies the allegations contained in paragraph 30.

31. Defendant denies the allegations contained in paragraph 31.

32. Defendant denies the allegations contained in paragraph 32.

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COUNT FIVE  
**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

- 33. Defendant denies the allegations contained in paragraph 33.
- 34. Defendant denies the allegations contained in paragraph 34.
- 35. Defendant denies the allegations contained in paragraph 35.
- 36. Defendant denies the allegations contained in paragraph 36.
- 37. Defendant denies the allegations contained in paragraph 37

COUNT SIX  
**ASSAULT**

- 38. Defendant denies the allegations contained in paragraph 38.
- 39. Defendant denies the allegations contained in paragraph 39.
- 40. Defendant denies the allegations Defendant denies the allegations contained in paragraph 40.

COUNT SEVEN  
**BATTERY**

- 41. Defendant admits that his gun discharged. He denies the remaining allegations contained in paragraph 41.
- 42. Defendant admits that his gun discharged. He denies the remaining allegations contained in paragraph 42.
- 43. Defendant admits Beasley died as a result of a gun shot fired but denies the remaining allegations contained in paragraph 43.

COUNT EIGHT  
**PUNITIVE DAMAGES**

- 44. Defendant denies the allegations contained in paragraph 44.
- 45. Defendant denies the allegations contained in paragraph 45.
- 46. Defendant denies the allegations contained in paragraph 46.
- 47. Defendant denies the allegations contained in paragraph 47.

**AFFIRMATIVE DEFENSES**  
**(Applicable to all counts)**

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3 48. Defendant asserts the affirmative defense of comparative fault. Defendant  
4 reserves the right to argue at trial that Beasley was at fault for exiting his motor vehicle,  
5 threatening and charging Defendant in his vehicle, entering into a physical struggle with  
6 Defendant and causing Defendant to have to defend and protect himself and his passenger.  
7 Defendant further reserves the right to argue that other parties and/or non-parties were at  
8 fault either all or in part for causing the death of Mr. Beasley. Defendant further reserves  
9 the right to adduce evidence at trial that Rebecca Beasley may have contributed to the  
10 death of her husband by aiding, abetting, or encouraging Beasley to attack Defendant.

11 49. Defendant asserts the affirmative defense of assumption of the risk. Beasley  
12 assumed the risk when he engaged in an argument with Defendant from their respective  
13 vehicles, exited his vehicle and began to threaten and charge Defendant, and then  
14 attempted to gain control of Defendant's gun inside Defendant's vehicle. Beasley was  
15 aware or reasonably should have been aware of the risk that his unreasonable behavior  
16 created, and, therefore, assumed the risk of such conduct.

17 50. Defendant also asserts the affirmative defense under A.R.S. § 12-711.  
18 Namely, Defendant asserts that at the time of his death, Beasley was under the influence of  
19 alcohol and/or intoxicating drugs and, therefore, the statute may bar this action.

20 51. Defendant also asserts the affirmative defense of A.R.S. § 12-712(a) and  
21 A.R.S. § 12-712(b) at the time of his death, Beasley was committing felonies and  
22 misdemeanors, and, therefore, that statute may bar this action.

23 52. Defendant further asserts that A.R.S. § 12-716 bars recovery or provides a  
24 presumption that his conduct was reasonable at the time of the incident.

25 53. Defendant also asserts that Beasley's willful and wanton conduct bars any  
26 recovery for this action against Defendant. Beasley's decisions to argue with Defendant in

1 their respective motor vehicles, exit his vehicle to threaten and then charge Defendant in  
2 his vehicle, and to engage in a physical struggle with Defendant for Defendant's gun were  
3 all intentional willful and wanton acts done by Beasley with knowledge that serious injury  
4 to Defendant probably will result and/or were done with a wanton and reckless disregard  
5 of the possible results.

6 54. Defendant further asserts that non-parties may be at fault for serving  
7 intoxicating alcohol to both Beasley and Rebecca Beasley to the point of extreme  
8 intoxication. As a result of the intoxication, Beasley and Rebecca Beasley had reduced  
9 inhibition and aggressive behavior, resulting in the confrontation on the roadway.

10 55. Defendant asserts that all affirmative defenses apply to Plaintiffs as statutory  
11 representatives for the wrongful death action. Defendant also asserts that he is not  
12 required to name Beasley as a non-party at fault for these reasons. To the extent that the  
13 Court rules contrary, Defendant names Beasley as a non-party at fault.

14 56. Defendant further asserts that at the time of the injury, Beasley was violently  
15 attacking Defendant and Defendant acted in self defense or in the defense of others, when  
16 attempting to prevent Beasley from taking control of the firearm in question.

17 57. Defendant denies all allegations not expressly admitted or otherwise  
18 qualified heretofore.

19 58. Defendant does not knowingly or intentionally waive any affirmative  
20 defenses and reserves the right to assert any and all affirmative defenses that may be  
21 available after reasonable discovery.

22 WHEREFORE, having fully answered Plaintiffs' Complaint, Defendant requests  
23 the following relief:

- 24 A. That the Complaint be dismissed with prejudice;  
25 B. That Plaintiffs take nothing thereby;  
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1 C. That Defendant be awarded reasonable attorneys fees pursuant to common  
2 law and A.R.S. § 13-420, Arizona Rules of civil Procedure, and A.R.S. § 12-349, and  
3 taxable costs incurred herein; and

4 D. That Defendant be awarded such other and further relief as the court deems  
5 just and proper under the circumstances.

6 DATED this 9<sup>th</sup> day of August, 2010.

7 ALLEN & LEWIS, PLC

8  
9 By /s/ Robert K. Lewis  
10 Robert K. Lewis  
11 Shannon O'Connell  
12 Attorneys for Defendants

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on August 9, 2010, I electronically filed the foregoing document with  
15 the Court and mailed a copy this same date to the following:

16 John C. Doyle  
17 Jonathan L. Sullivan  
18 Doyle Law Group  
19 5010 E. Shea, Suite A-106  
20 Scottsdale, Arizona 85254  
21 Attorneys for Plaintiffs

22 By /s/ Jamie Tanner  
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